



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 14

VOLUNTARY TRUST DEEDS FOR CREDITORS

Administration, accounting and discharge

184 Protected trust deed: discharge of debtor

- (1) If the conditions set out in subsection (2) are met then, subject to subsections (6) and (9) and to section 185(1)—
 - (a) the debtor falls to be discharged from all debts and obligations —
 - (i) in terms of the protected trust deed, or
 - (ii) for which the debtor was liable as at the date that deed was granted, and
 - (b) the trustee under the protected trust deed must send—
 - (i) to AiB, an application for discharge of the debtor from the trust deed (being an application in such form as may be prescribed for the purposes of this paragraph), and
 - (ii) to the debtor, a copy of that application.
- (2) The conditions are—
 - (a) that the trustee makes a statement (being a statement in such form as may be prescribed for the purposes of this paragraph) that, to the best of the trustee's knowledge, the debtor has—
 - (i) met the debtor's obligations in terms of the trust deed, and
 - (ii) co-operated with the administration of the trust, and
 - (b) any notice of inhibition under paragraph 3 of schedule 4 has been recalled or has expired.
- (3) Subject to subsection (9), on receipt of the application referred to in subsection (1)(b)
 - (i), AiB must register it in the register of insolvencies and the date of discharge is the date on which it is so registered.
- (4) AiB must without delay notify the trustee of—

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- (a) the fact of registration, and
 - (b) the date of the debtor's discharge.
- (5) The trustee must, within 7 days after receipt of the notification mentioned in subsection (4), notify the debtor and every creditor known to the trustee of the information set out in that notification.
- (6) The letter of discharge does not—
- (a) discharge the debtor from—
 - (i) any liability arising after the date on which the protected trust deed was granted,
 - (ii) any liability or obligation mentioned in section 145(3),
 - (iii) any liability for a debt in respect of which a security is held if the secured creditor has, as mentioned in paragraph (b)(ii) of the trust deed definition, agreed not to claim under the trust deed for any of the debt in respect of which the security is held, or
 - (b) affect the rights of a secured creditor.
- (7) For the purposes of subsection (2)(a)(i), it is not a failure to meet the debtor's obligations for the debtor to refuse to —
- (a) consent to the sale of the debtor's dwellinghouse (or of a part of that dwellinghouse) if the dwellinghouse or part is excluded, as mentioned in paragraph (b)(i) of the trust deed definition, from the estate conveyed to the trustee,
 - (b) give a relevant consent in terms of section 113(1)(a).
- (8) If, on request by the debtor or as soon as reasonably practicable after the end of the period for which payments are required under the trust deed, the trustee refuses to apply to AiB for discharge of the debtor, the trustee must—
- (a) inform the debtor by notice in writing—
 - (i) of the fact and the reason for the refusal,
 - (ii) that the debtor is not discharged from the debtor's debts and obligations in terms of the trust deed, and
 - (iii) of the debtor's right to apply to the sheriff for a direction under section 189(1), and
 - (b) send a copy of the notice to AiB within 21 days after the date of issue of the notice.
- (9) AiB may refuse to register under subsection (3) an application sent under subsection (1)(b)(i) if not satisfied that the debtor has—
- (a) met the debtor's obligations in terms of the trust deed, or
 - (b) co-operated with the administration of the trust.
- (10) If AiB does so refuse, AiB must provide written notification of the refusal and of the reason for it to the trustee and the debtor.
- (11) Within 7 days after the date on which the trustee receives any such notification as is mentioned in subsection (10), the trustee must send a copy of it to every creditor known to the trustee.

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Commencement Information

II [S. 184](#) in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 78(2)(a) words in s. 78(2) renumbered as s. 78(2)(a) by [2019 asp 4 s. 7\(2\)\(a\)](#)
- s. 78(2)(b) and word inserted by [2019 asp 4 s. 7\(2\)\(b\)](#)